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Richard A. Wilsak

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BP America Inc.

Docket Clerk, BP Legal, M.C. 5East

4101 Winfield Road

Warrenville, IL 60555

EXAMINER

POPOVICS, ROBERT J

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory

Applicant's arguments filed **October 8, 2008** have been fully considered but they are not persuasive.

Applicants have argued:

I. Summary of the Amendments to the Claims

Independent claim 1 has been amended to more clearly define the filtration zone as defining higher and lower concentration zones that are separated from one another by a filter. ①

② Written description support for this amendment can be found in the drawing figures and the specification text describing those figures. Claim 1 also has been amended to more clearly specify that the displacement fluid is insoluble in the slurry feed components. Written description support for this amendment can be found in the specification at, for example, page 8, lines 12-16, which states that the displacement fluid preferably is "insoluble in one or more solids of the slurry feed" and "insoluble in one or more liquids of the slurry feed." Claim 1 has been further amended to more clearly recite that the displacement fluid displaces at least a portion of the liquid from the slurry feed "past the filter and into the lower concentration zone to produce a filtrate in the lower concentration zone." ③ Written description support for this amendment can be found in the claim as originally filed.

④ Dependent claims 5 and 6 have been amended to more clearly recite that a portion of the displacement fluid (or gas) flows from the higher concentration zone through the filter and into the lower concentration zone. Written description support for this amendment can be found in the drawing figures and the specification text describing those figures.

Applicants' amendments excerpted as above have been numbered 1-4. As for amendment number 1, it could serve as a definition for a **"filter,"** as virtually all filters operate in that manner. Expressly stating the definition of a **"filter"** is seen to add no meaningful (i.e., patentable) limitation to the claim. As for amendment number 2, the displacement fluids of the references as applied will be insoluble in the slurry feed

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components to the same degree that Applicants displacement fluids are. As for numbers 3 & 4, the displacement fluid process of the references as applied in the Final Office Action will behave in the same manner.

Applicants have asserted:

Obviousness is determined from the vantage point of a hypothetical person having ordinary skill in the art to which the claimed subject matter pertains, who is presumed to have all prior art references in the field of the invention available to him/her. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998).

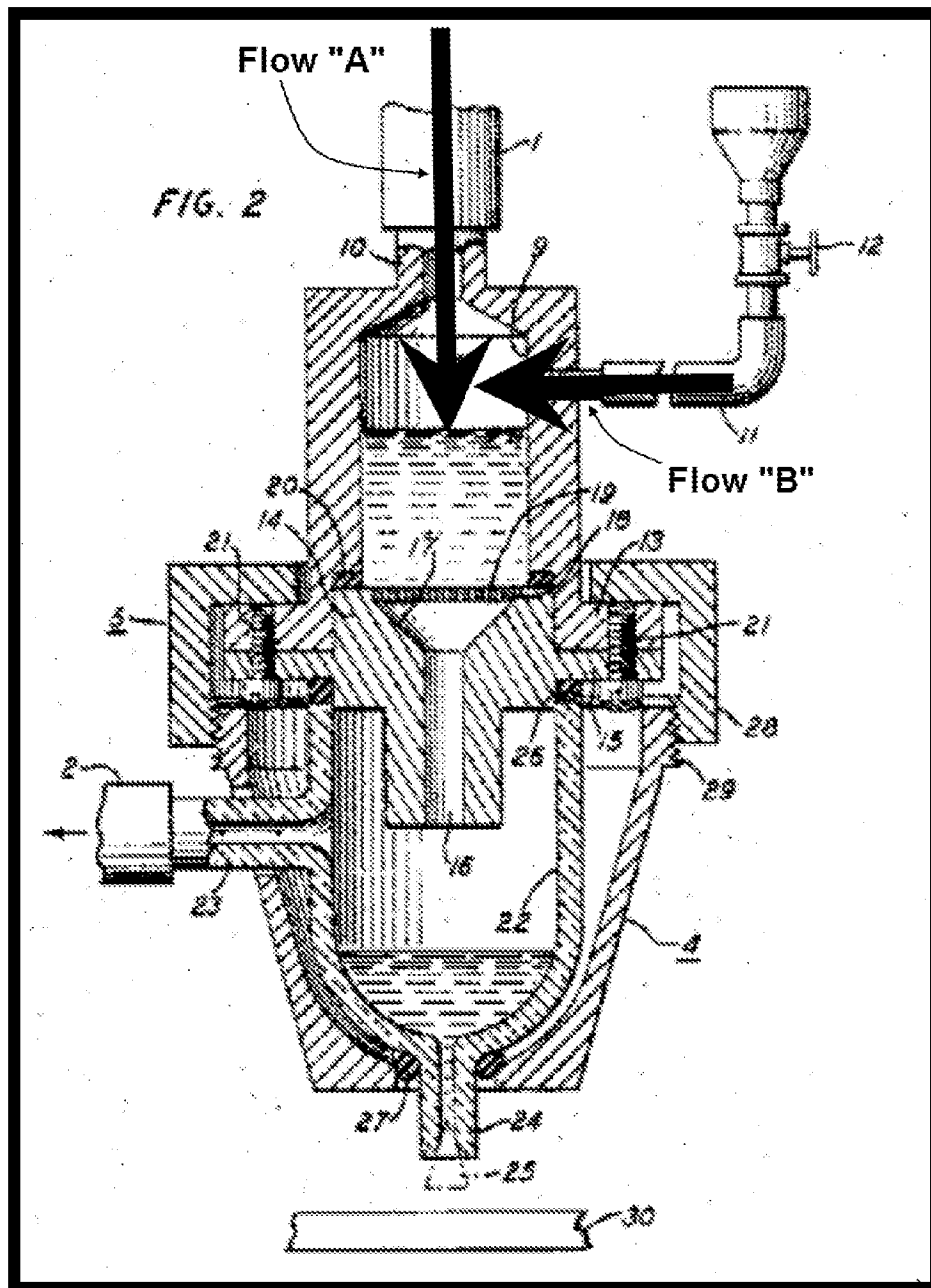
Applicants assert that the ***"hypothetical person having ordinary skill in the art to which the claimed subject matter pertains"*** is charged with the knowledge of all prior art references. That assertion is absolutely correct. Unfortunately, Applicants' arguments appear to disavow any knowledge of the prior art that the hypothetical skilled artisan may have. Quite frankly, given the arguments presented, it is unclear why this statement, attributable to In re Rouffet, was ever presented. The rejection made by the examiner credited those skilled in the art with a knowledge of that which is conventional, or known in the art. As evidenced by their arguments, Applicants have not.

Applicants have argued:

The action does not identify where in the applied prior art there is a disclosure of a process that includes flowing a slurry feed into the higher concentration zone, and flowing a displacement fluid into the higher concentration zone, countercurrent to the flow of the slurry feed, as recited in independent claims 1 and 40.

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It is submitted that the flows are "**countercurrent**" as shown below:



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Beyond the arguments presented, Applicants have added limitations to independent claims **1** and **40**, the only, elected, independent claims presently under consideration, that raise new issues (e.g., ***“insoluble”*** nature and ***“hollow cylinder”***) requiring additional consideration and searching, as these limitations have not previously been presented or considered.

Any inquiry concerning this communication should be directed to /Robert James Popovics/ at telephone number (571) 272-1164.

**/Robert James Popovics/
Primary Examiner
Art Unit 1797**